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TAGS: [AMGT](#) [BEXP](#) [ECON](#) [ELAB](#) [ETRAD](#) [KSEP](#) [SENV](#) [CH](#)  
SUBJECT: CHINA: DUE DILIGENCE ON NOMINEE FOR THE  
SECRETARY OF STATE'S 2009 AWARD FOR CORPORATE  
EXCELLENCE

Ref: State 78538

¶1. (SBU) The following are answers to the due diligence questions posed in reftel. (Note: In the answers below "Cummins" and "the company" refer to the parent company headquartered in the United States; "Cummins China" refers to Cummins' wholly-owned holding company in China as well as its joint venture operations in China. End Note.)

A) Post research has not uncovered significant possible negatives or risks associated with selecting Cummins China. However, Cummins China has had a joint venture with Dongfeng Motor Corporation since 1996 producing several varieties of engines used in Chinese-produced heavy trucks, including those used by the People's Liberation Army and the People's Armed Police. Post is also aware of reports that Cummins China engines were included in some truck shipments from China to Burma and Sudan around 2005 (see links below). The company responded in June 2006 by banning sales of Cummins products in Sudan and Burma.

[http://www.amnesty.org/en/library/asset/ASA17\\_030/2006/en/dom-ASA170302006en.html](http://www.amnesty.org/en/library/asset/ASA17_030/2006/en/dom-ASA170302006en.html)

<http://www.sudanreeves.org/Article115.html>

[http://www.rawstory.com/news/2006/Report\\_China\\_selling\\_arms\\_to\\_rights\\_0608.html](http://www.rawstory.com/news/2006/Report_China_selling_arms_to_rights_0608.html)

B) Cummins does not compile data on job creation in the United States from its operations in China. However, according to information provided by Cummins China, in the five years prior to the start of the recession in late 2008, Cummins added approximately 3,000 jobs in the United States -- in part on the strength of the company's international growth that led to record sales and profits for Cummins from 2004-2008. For the past several years, Cummins' international sales have accounted for more than half of the company's total revenues; in 2008, international sales accounted for nearly 60 percent of Cummins' consolidated sales. With consolidated sales of USD 1.1 billion in 2008, China is one of Cummins' largest international markets. Factoring in sales from the company's unconsolidated joint ventures, Cummins sales in China reached USD 2.3 billion in 2008.

C) According to Cummins China, Cummins is a significant exporter from the United States, with approximately USD 11 billion worth of goods and services exported worldwide in the last three years.

Cummins does not track exports by receiving country and Post does not have an independent assessment.

D) Post is not aware of any problems related to labor conditions at Cummins China facilities. According to Cummins China, unions have been established in all of the their joint ventures in China, and Cummins China's wholly-owned holding company recently established a union that is quite large and vibrant. According to Cummins China representatives, they view unions as a key part of their approach to actively integrating local Chinese partners and encouraging local employee development.

According to the Trade Union Law of China, workers can form a union in any company, foreign or domestic. The Communist Party-controlled All China Federation of Trade Unions (ACFTU), however, is the only legal union and does not effectively represent workers or bargain on their behalf. Cummins has received criticism that the company's business and employment practices in China and Nigeria do not measure up to international labor and human rights standards.

The following two paragraphs are in their entirety an excerpt from a 2009 stockholder resolution available on the internet (<http://www.onlineethicalinvestor.org/eidb/wc.dll?eidbproc~reso~8570>):

Begin Excerpt:

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In January 2008, Cummins took an important step towards recognizing workers' fundamental rights by amending its Code of Business Conduct (the "Code"): "We respect employees' freedom of association, right to bargain collectively and all other workplace rights." However, the Code does not contain any monitoring, enforcement, or reporting provisions to protect these rights. In addition, our company's non-discrimination policy fails to include "union affiliation," as called for by International Labor Organization (ILO) Conventions 98 and 135.

The Code states that "Our commitment to fair treatment ... extends to our joint ventures, suppliers and other partners" through the Supplier Code of Conduct. This code, however, merely requires adherence to local law regarding workers' freedom of association and does not address collective bargaining. Cummins' global operations include countries such as China and Nigeria, whose laws fail to sufficiently protect workers' fundamental rights to form and join unions of their choice, and to bargain collectively. End Excerpt.

E) Post is not aware of any litigation involving Cummins China pending in local courts.

F) The CDA and others involved in the nominating process do not hold shares of stock or have other financial interests in Cummins.

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